



Written Statement

of

George T. Eastment, III
Executive Vice President
Long and Foster Real Estate, Inc.

On Behalf of

The Real Estate Services Providers Council, Inc. (RESPRO®)

Before the
U.S. House of Representatives
Subcommittee on Financial Institutions and Consumer Credit
of the
Committee on Financial Services

On

H.R. 3424, The Community Choice in Real Estate Act

July 24, 2002

Good morning, Mr. Chairman and members of the Subcommittee. My name is George T. Eastment, III and I am Executive Vice President of Long and Foster Real Estate Services, Inc. a full service real estate home ownership company headquartered in Fairfax, Virginia.

Long and Foster Real Estate, Inc. has 200 residential real estate brokerage offices that engage in real estate sales and leasing in Virginia, Washington, D.C. Maryland, West Virginia, Delaware, and Pennsylvania, North Carolina, and soon New Jersey.

Long and Foster offers a full array of mortgage services through Prosperity Mortgage, which is a joint venture co-owned by Long and Foster and Wells Fargo Home Mortgage. We also offer personal, commercial, and financial insurance protection from over 50 insurance companies through Long and Foster Insurance, a wholly-owned insurance agency. Mid-States Title, another wholly owned company, runs five joint ventures that conducted over 10,000 settlements last year.

Our firm has 12,600 sales associates and employees, of which 9,000 are members of the National Association of Realtors.

I am a past Chairman of The Real Estate Services Providers Council, Inc. (RESPRO[®]) and I currently serve as its Treasurer, as a member of the Executive Committee, and as a member of the Board of Directors.

RESPRO[®] is a national non-profit trade association of approximately 200 residential real estate brokerage, mortgage, home building, title, and other settlement service companies who united in 1992 to promote an environment that enables providers to offer diversified services for home buyers and owners (one-stop shopping) through strategic alliances across industry lines.

Approximately 55% of RESPRO[®]'s members engage in residential real estate brokerage, either directly or as a franchisor. Most of our real estate broker members are

what I will refer to as “integrated” real estate brokerage firms, which means we also offer mortgage, title, and/or other settlement services to our customers.

Together, RESPRO[®] members who are in the real estate brokerage business closed over one million residential real estate transactions in 2001, utilizing over 300,000 sales associates and over 78,000 employees.

I. Position of RESPRO[®] on Bank-Real Estate Affiliations

RESPRO[®]'s Board of Directors supports the 2001 proposal by the Federal Reserve Board (Fed) and Treasury Department to allow financial holding companies and national bank subsidiaries into the real estate brokerage and related businesses by declaring these activities to be “financial in nature”, and we oppose H.R. 3424, which would block this proposal.

All available evidence shows that home buyers like one-stop shopping, and that realty-based one stop shopping offers potential consumer benefits such as convenience and lower costs. RESPRO[®] supports a competitive marketplace that would allow *any* company to offer consumers these benefits, regardless of its industry or affiliation.

II. Today's Realty-Based One Stop Shopping Programs

According to a 1999 study conducted by the independent consulting firm of Weston Edwards and Associates, the top 350 real estate brokerage firms closed \$22 billion in mortgage loans in 1998, and realty-based and builder-based lending accounted for about 10% of all purchase money mortgages that same year.¹ Edwards estimated that this amount would double to 20% within three years.²

“Changes in the Way Homes Are and Will Be Bought and Sold”, By Weston Edwards & Associates, 1999.

2 Weston Edwards & Associates is expected to publish 2002 statistics in this area sometime in 2003.

Edwards also found that 69% of the 250 largest residential real estate brokerage firms in the country offer mortgages, and 31% offer title, closing or escrow or personal insurance in 1996.³

III. The Potential Consumer Benefits of Realty-Based One Stop Shopping

Since real estate brokerage firms began to enter mortgage and other financial services businesses over 20 years ago, there have been several consumer surveys and economic studies to assess their impact. All have conclusively shown that realty-based one-stop shopping programs in today's marketplace offer many potential benefits to the home buyer.

The most recent survey of consumer attitudes towards realty-based one stop shopping, which is attached to this testimony, was performed in March of this year. Harris Interactive, the parent of Harris Poll, surveyed 2052 recent and future home buyers and found:

- ◆ That 82% of home buyers would “strongly” or “somewhat” strongly consider using a one stop shopping service for their home purchase.
- ◆ That the three preferred sources of one-stop shopping programs are mortgage companies, banks and credit unions, and real estate brokerage firms.

3 “One-Stop-Shopping For The Homebuyer: A Rapidly Expanding Channel of Distribution”, by Weston Edwards & Associates, 1997. The business structures of these realty-owned one-stop shopping programs vary. Many of the largest firms have created wholly-owned mortgage lending or brokerage, title, and/or insurance subsidiaries. Smaller firms have created joint ventures with local or national mortgage lenders, financial institutions, or mortgage subsidiaries of financial holding companies, title underwriters, or title agencies that are jointly owned (e.g., 50%-50%) by the partners.

- ◆ That 64% of home buyers who recently used one stop shopping programs had a much better overall experience with their home purchase transaction.
- ◆ That over 90% of home buyers who did not use one stop shopping programs believed that if they had used one, they would have had a better overall home purchase experience because:
 - They would have had just one person to contact,
 - They would have saved money if the company offered discounted prices
 - It would have sped up the home buying process,
 - It would have prevented things from falling through the cracks; and
 - It would have assured one standard level of brand-named service from all providers of the home purchase services.⁴

The Edwards study I mentioned earlier found that mortgages offered by realty-based one stop shopping programs are competitive in both price and service. It concluded that real estate agents prefer using outside lenders unless the in-house mortgage service is exceptional, and that they only recommend the in-house product to the home buyer when the loan product is within 1/8th of a percent of the best rate and when he or she believes the service is superior to outside mortgage products. The Edwards study also found that 96% of realty-owned mortgage brokerage operations use multi-lender systems, in order to give their real estate sales force and their customers a choice of mortgage lenders.

4 The survey also asked home buyers how they felt about financial institutions entering the real estate brokerage business. 69% believed it would positively affect the range of services available through one company, 47% believed it would positively impact the number of choices of companies to conduct their home purchase transaction, and 46% believed it would positively affect the price they paid for services needed to conduct the home purchase transaction

A 1994 economic study commissioned by RESPRO[®] and conducted by Lexecon, Inc., a national economic consulting firm, also found that realty-based one stop shopping programs potentially offer lower costs.⁵ The study compared title and closing costs between realty-owned title companies and independent title companies in over 1000 home purchase transactions throughout seven states -- Florida, Minnesota, Tennessee, Wisconsin, Mississippi, Pennsylvania and California—and concluded that title and closing costs for realty-owned title companies were not only competitive with those of independent title companies, but actually resulted in a 2% cost savings.⁶

The bottom line is that every consumer survey and empirical study to date has shown that home buyers prefer and potentially benefit from realty-based one-stop shopping programs.

IV. Integrated Real Estate Brokerage Companies Favor Open Competition

As you know, the banking industry has argued that financial holding companies and national bank subsidiaries should be able to compete with integrated real estate firms such as Long and Foster Real Estate and other RESPRO[®] members. In addition, some participants in this debate have accused the real estate brokerage industry as being “hypocritical” by wanting to be in the financial services business without letting financial institutions compete with us in the real estate brokerage business.

5 “Economic Analysis of Restrictions on Diversified Real Estate Services Providers”, by Lexecon, Inc., January 3, 1995.

6 In a 1996 Economic Analysis accompanying a final RESPA regulation, the Department of Housing and Urban Development (HUD) offered its independent analysis of both the Lexecon, Inc. study and the Edwards study. It concluded that “...referral activity among affiliates might still benefit consumers because of the possibility of immediate savings in shopping time and hassle and future reductions in prices due to lower marketing and other costs. Taking these benefits into account, referrals among affiliated firms are probably neutral and possibly beneficial to consumers.”

I can assure you that Long and Foster Real Estate and the majority of RESPRO[®] members favor open competition and believe that banks should be able to compete with us in our primary business in the same way we compete with them in the mortgage and other settlement service businesses.

Over the last 20 years, a number of financial conglomerates have entered the real estate brokerage business, with varying degrees of success. In the 1980s and early 1990s, Sears Roebuck owned Coldwell Banker, Metropolitan Life owned Century 21, and Merrill Lynch owned Merrill Lynch Realty. Today, General Motors Acceptance Corporation (GMAC) owns GMAC Real Estate, Prudential Insurance Company owns Prudential Realty, Cendant Corporation operates the Century 21, ERA and Coldwell Banker franchises, and Warren Buffet's Berkshire Hathaway owns Home Services of America, Inc.

Initially, these companies appeared to have significant competitive advantages over traditional real estate brokerage companies, such as national distribution outlets, consumer marketing lists that make it easy to reach everyone, valuable data about buying habits, and tremendous name recognition. Sears even had access to federally insured deposits through its affiliate Sears Savings Bank.

Their entry into the business real estate brokerage business concerned many independent real estate brokerage firms at the time. In fact, in 1981, the long range planning committee of a national network of large regional independent brokerage firms issued a report to its members that stated that Merrill Lynch and Sears were the two greatest threats to the solvency of real estate brokerage firms ever faced by the industry.

But this prediction was unfounded. Sears, Merrill Lynch, and Metropolitan Life have since left the real estate brokerage business. While Prudential, GMAC, Cendant, and Berkshire Hathaway remain competitors, their presence in the real estate marketplace has not changed the basic character of the real estate brokerage business. In fact, we

believe that their entry contributed to the development of a wider range of services and caused traditional real estate brokerage firms to become more efficient and more consumer-focused than they were before.

Federally-insured financial institutions also have entered residential real estate markets over the years. This is not surprising, since over 50% of financial institutions (state-chartered banks in 26 states, federal savings associations, and credit unions) can currently engage in real estate brokerage.

Metropolitan Financial Corporation owned Minneapolis-based Edina Realty from 1988 to 1995. Sears Savings Bank was affiliated with Coldwell Banker from 1990 to 1993. Twin Cities Federal (TCF) and Great Western at one time owned real estate brokerage firms. Savings institutions or state-chartered banks also acquired real estate brokerage firms in Connecticut, Pennsylvania, Delaware, Texas, New York and in Florida over the last several years. But over time, most of these financial institutions sold their real estate brokerage businesses and retreated from the marketplace.

V. There Should be A Level Playing Field Between Bank-Owned and Non-Bank Real Estate Brokerage Firms Under RESPA and State Laws

While RESPRO[®] and The Realty Alliance support the ability of financial holding companies and national bank subsidiaries to enter the real estate brokerage business, we also believe that bank-owned and non-bank real estate brokerage firms should compete under a similar federal and state regulatory environment.

A. The Real Estate Settlement Procedures Act (RESPA)

At the federal level, all settlement service providers, including integrated real estate brokerage firms and our real estate agents, must comply with the Real Estate Settlement Procedures Act (RESPA), which requires that a lender give a Good Faith Estimate (GFE) of the closing costs three days after the application and a HUD-1

Settlement Statement at closing. Section 8 of RESPA also prohibits settlement service providers from giving or receiving referral fees, or “kickbacks”.

Integrated real estate brokerage firms also are subject to RESPA’s “affiliated business” restrictions, which requires us, before we refer business to our mortgage, title or other settlement service affiliates, to (1) disclose the nature of the financial relationship; (2) not require the use of the affiliated settlement service; and (3) not give or receive any referral fees that are otherwise prohibited under RESPA. Under the last requirement, neither a real estate brokerage firm nor its real estate sales associates can accept any “thing of value” from an affiliated mortgage or other settlement service provider for referrals of business.⁷

Financial holding companies and national bank subsidiaries that enter the real estate brokerage business would be subject to these RESPA guidelines, which we believe is appropriate.

Recently, HUD announced that it will publish a proposed RESPA rule that would exempt providers from Section 8 of RESPA if they guarantee the lump-sum cost of a settlement service “package”.

For there to continue to be a level playing field between bank-owned and non-bank real estate brokerage firms, it is essential that HUD allow non-mortgage lenders such as real estate brokerage firms to offer a guaranteed “package” to our customers in

⁷ In addition, any mortgage, title, or other settlement service joint venture created by a real estate brokerage firm must comply with guidelines issued in a 1996 Department of Housing and Urban Development (HUD) Policy Statement that were intended to prevent “sham” joint ventures created primarily as a conduit for violating Section 8 of RESPA. Under these joint venture guidelines, HUD announced that it will look at a variety of factors to determine whether a joint venture is a “sham” or a legitimate joint venture, including whether both partners invest capital in the entity, whether the entity performs “core” settlement services, whether the entity has separate management and employees, and whether the partners’ return on their ownership interest is proportional to the capital they invested in the joint venture entity.

the same manner as mortgage lenders. We hope that Congress will closely monitor the progress of this HUD rulemaking proceeding to assure that *all* providers have the ability to compete under any new regulatory environment under RESPA, regardless of their industry or affiliation.

B. State Laws Affecting Integrated Real Estate Brokerage Firms

Integrated residential real estate brokerage firms also are subject to a myriad of state laws and regulations that prohibit or restrict their operations.

In 2001, 37 states had statutes, regulations, or policies that place percentage limitations on the amount of business a title insurer or agent can receive from an affiliate, including an affiliated real estate broker, real estate agent, home builder, mortgage lender, or financial institution.⁸ Other states have enacted laws that prohibit a person from receiving a fee as real estate broker or salesperson and mortgage broker in the same transaction.

As you know, the Gramm-Leach-Bliley Act (GLBA) prohibited states from (1) preventing a depository institution or affiliate from being affiliated with any entity authorized by the Act; (2) preventing or significantly interfering with the ability of a depository institution or affiliate to engage in insurance sales, solicitation or cross-marketing; or (3) preventing or significantly interfering with the ability of an insurer or affiliate to become a financial holding company or to acquire control of a depository institution.

Since GLBA passed Congress, some financial institutions have successfully exempted themselves from these state restrictions under GLBA's state preemption provisions. For example, the Kansas Insurance Department ruled in 2001 that GLBA

⁸ "State Survey of Affiliated Business Laws", by the Real Estate Services Providers Council, Inc. (RESPRO[®]), 2001.

preempted Kansas financial institutions *only* from a Kansas state law that prohibited a title agency from receiving in excess of 20% of its operating revenue from an affiliate.

As a result, Kansas financial institutions may own a title company but non-financial institutions, including real estate brokerage firms, may not. If financial holding companies and national bank subsidiaries are allowed to own real estate brokerage firms, then bank-owned real estate brokerage firms could own title agencies but non-bank real estate brokerage firms could not.

RESPRO[®] has consistently opposed these state anti-affiliation laws over the years, and we support their preemption or repeal for both financial institutions and non-financial institutions. If the Fed and Treasury approve a final rule, we urge Congress to assure that state laws apply equally to all real estate brokerage firms, regardless of their affiliation. This would better enable all real estate brokerage firms to offer home buyers the benefits of one-stop shopping programs, regardless of whether they are affiliated with a financial institution.

Mr. Chairman, I again thank you for the opportunity to testify, and I would be glad to answer any questions.